

JPA No.: 02-035I
AG Contract No.: KR02-0537TRN
Amendment No. 5
Project No.:
Project: Flagstaff Mall (Dodge Avenue -
Old Route 66)
Section:
TRACS No.: G105102C
Budget Source Item No.: (ESP)

**AMENDMENT NO. 5
TO
INTERGOVERNMENTAL AGREEMENT**

**BETWEEN
THE STATE OF ARIZONA
AND
CITY OF FLAGSTAFF**

THIS AGREEMENT is entered into this date May 14, 2007, Amendment No. 5 to JPA No. 02-035, A.G. Contract No.: KR02-0537TRN, filed with the Secretary of State under No. 25343, pursuant to the Arizona Revised Statutes § 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF FLAGSTAFF, acting by and through its MAYOR and CITY COUNCIL (the "City"). The State and the City are collectively referred to as "Parties".

I. RECITALS

1. The State is empowered by Arizona Revised Statutes § 28-401 and to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the State.

2. The City is empowered by Arizona Revised Statutes § 11-201 and 28-7282 to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the City.

This Agreement is being amended as follows; **a)** The parties agree to amend the above-referenced Agreement due to unexpected delays Developer hard bidding the paving projects to meet the state standards. The City is requesting that the deadline be extended to **December 31, 2007**. **b)** Amendment Number One, Two, Three, and Four are being attached as exhibits A., B., C., and D attached hereto and made a part hereof, as they were not required to be filled with the Secretary of State's Office.

THEREFORE, in consideration of the mutual Agreements expressed herein, this Agreement is amended as follows:

NO. 25343
Filed with the Secretary of State
Date Filed: 5/14/07
Janice K. Brewer
Secretary of State
By: [Signature]

II. SCOPE OF WORK

Article II, Paragraph 1. c. is deleted and replaced in full as follows:

1. The City shall:

c. Provide the State a copy of the executed Project contract(s), submit reimbursement requests and expend the State ESP funds no later than December 31, 2007. Provide the State detailed written reports of all ESP fund expenditures, supported by invoices, receipts or other suitable and appropriate documentation, and a final accounting report no later than thirty (30) days after ESP funds are fully expended.

III. MISCELLANEOUS PROVISIONS

Article III, Paragraph 4 is deleted and replaced in full as follows:

4. This Agreement shall remain in force and effect until December 31, 2007, reimbursement and subsequent reports; provided, however, that this Agreement, except any provisions herein for maintenance, which shall be perpetual, unless assumed by another governmental agency, may be cancelled at any time prior to the award of a construction contract; upon thirty (30) days written notice to the other party. Further, this Agreement may be terminated and the ESP grant cancelled by the State if the City, in the opinion of and by action of the Transportation board, fails to pursue due diligence on the Project or in the performance of any of the terms of this Agreement.

EXCEPT AS AMENDED HEREIN, ALL OTHER terms and conditions of the original Agreement remain in full force and effect.


IN WITNESS WHEREOF, the parties have executed this Amended Agreement the day and year first above written.

CITY OF FLAGSTAFF

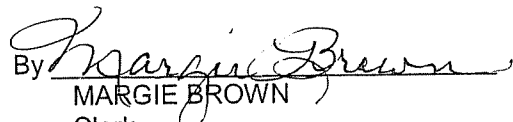
STATE OF ARIZONA

Department of Transportation

By 
JOE DONALDSON
Mayor

By 
DALE BUSKIRK
Transportation Planning Division

ATTEST:

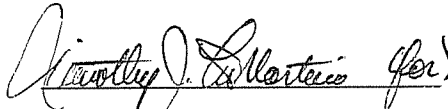
By 
MARGIE BROWN
Clerk

ATTORNEY APPROVAL FORM FOR THE CITY OF FLAGSTAFF

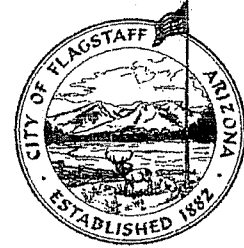
I have reviewed the above referenced Amendment No. 5 Intergovernmental Agreement between the State of Arizona, acting by and through its DEPARTMENT OF TRANSPORTATION, and the City, an Agreement among public agencies which, has been reviewed pursuant to A.R.S. § 11-951 through § 11-954 and declare this Agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona.

No opinion is expressed as to the authority of the State to enter into this Agreement.

DATED this 4th day of April, 2007.


City Attorney

CITY OF FLAGSTAFF STAFF SUMMARY REPORT



To: The Honorable Mayor and Council
From: Michael J. Kerski
Community Investment Director, X7357
Date: March 19, 2007
Meeting Date: April 3, 2007

Title: APPROVAL OF AMENDMENT NO. 5 TO INTERGOVERNMENTAL AGREEMENT
BETWEEN THE STATE OF ARIZONA AND THE CITY OF FLAGSTAFF

Recommended Action:

APPROVE AMENDMENT NO. 5

ACTION SUMMARY:

This agreement relates to an extension until December 31, 2007 of the Intergovernmental Grant Agreement – Economic Strength Program (ESP) for Flagstaff Mall (Dodge Avenue-Old Route 66) awarded to the City of Flagstaff for the pavement of new Dodge Avenue (Test Drive) under the Department of Transportation/Arizona Department of Commerce grant program.

DISCUSSION:

Background/History:

The City of Flagstaff was awarded \$250,000 in 2001 towards the Mall redevelopment as part of the Department of Transportation/Arizona Department of Commerce Economic Strength Program. The project has not been completed due to the fact that it is part of a much larger project associated with the Mall expansion and the extension of Dodge Avenue to old Route 66 (Business 40). It is anticipated that the work will be completed by Fall 2007 with the opening of the first phase of the Flagstaff Marketplace.

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Key Considerations:

This award was fifty percent of the State's allocation. This project should be completed and closed out by the end of this year, allowing the City the opportunity to apply for funding for other projects.

Community Benefits and Considerations:

These funds were included as part of the City's \$10 million share of the Mall's infrastructure costs. The project will exceed the original expectations of providing 400 jobs and private investment of \$50 million. The total private investment is now well over \$100 million and we will exceed the 400 new jobs when we include the auto dealer positions.

Community Involvement:

This project has had substantial community involvement over many years.

Financial Implications:

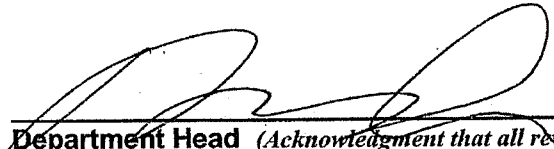
This is a \$250,000 grant to the City of Flagstaff towards its \$10 million infrastructure commitment to the Mall expansion.

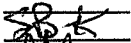
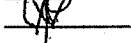
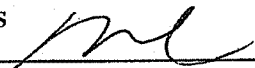
Options and Alternatives:

City Council could choose not to approve this and not move forward with the grant.


Attachments/Exhibits:

AMENDMENT NO. 5 TO IGA


Department Head (Acknowledgment that all reviews have been completed and required approvals initialed below.)

INITIALS	RESPONSIBILITY	DATE	INITIALS	RESPONSIBILITY	DATE
	BIDS/PURCHASES	3/22/07		FINANCE/BUDGET	
	GRANTS	3/19/07		CONTRACTS	
	LEGAL			IGAS	

DATE OF COUNCIL APPROVAL: _____

<p>TERRY GODDARD Attorney General</p>	<p> OFFICE OF THE ATTORNEY GENERAL STATE OF ARIZONA</p>	<p>CIVIL DIVISION TRANSPORTATION SECTION Writer's Direct Line: 602.542.8855 Facsimile: 602.542.3646 E-mail: Susan Davis@azag.gov</p>
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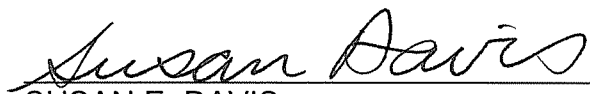
INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR02-0537TRN (**JPA 02-0351**), Amendment No. 5, an Agreement between public agencies, i.e., The State of Arizona and The City of Flagstaff, has been reviewed pursuant to A.R.S. § 11-951 through 11-954, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED: May 10, 2007.

TERRY GODDARD
Attorney General


SUSAN E. DAVIS
Assistant Attorney General
Transportation Section

SED:smb:940464
Attachment